

BEFORE THE  
SHORELINES HEARINGS BOARD  
STATE OF WASHINGTON

IN THE MATTER OF A SHORELINE  
SUBSTANTIAL DEVELOPMENT PERMIT  
DENIED BY SAN JUAN COUNTY TO  
WILLIAM M. CONNER,

WILLIAM M. CONNER,

Appellant,

v.

SAN JUAN COUNTY,

Respondent.

SHB No. 82-15

FINAL FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND  
ORDER

This matter, the request for review of a substantial development permit denied by San Juan County to William M. Conner, came before all members of the Shorelines Hearings Board (Gayle Rothrock, David Akana, Steve Tilley, Rodney Kerslake, Larry Faulk, and Beryl Robison) at a hearing in Friday Harbor, Washington, at 9:30 a.m., October 18, 1982. David Akana presided.

Gene Knapp, San Juan County Prosecutor represented San Juan County. Mr. Conner appeared through his counsel John O. Linde.

1 Gene Barker, court reporter, recorded the proceedings.

2 At the outset counsel for the appellant moved to limit the hearing  
3 to two issues; (1) the question of the visual or aesthetic impact of  
4 the proposed dock, and (2) the question of the legal right of the  
5 County to prevent this particular dock from being constructed. This  
6 was agreed to by both parties and the Board.

7 After hearing the testimony, examining exhibits, and studying  
8 briefs, the Shorelines Hearings Board makes these

9 FINDINGS OF FACT

10 I

11 The subject of this request for review is a proposal by William M.  
12 Conner, 846-108th NE, Suite 202, Bellevue, Washington, 98004, to  
13 construct a private dock on his property at White Point on San Juan  
14 Island. It is intended to be jointly used by the owners of four  
15 parcels of land (4623-3302 through 4623-3305). The current owners are  
16 William Conner, Marilyn Conner, Beverly and Ed Dean.

17 II

18 On February 1, 1980, Mr. William M. Conner submitted an  
19 application (Number 5SJ80) for a substantial development permit to  
20 construct an L-shaped dock within the shorelines of San Juan County.  
21 On April 28, 1982, San Juan County Commissioners issued a declaration  
22 of non-significance. On June 8, 1982, the application was denied by  
23 the County Commissioners. From this action the appellant appeals.

24 III

25 The public has limited visibility of this remote property because  
26 FINAL FINDINGS OF FACT,  
27 CONCLUSIONS OF LAW & ORDER  
SHB No. 82-15

1 it is at the end of a long (estimated to be two miles) private dirt  
2 road. Of those parties testifying who could see the proposed dock,  
3 two support Mr. Conner's project.

4 IV

5 The appellant's proposal is to construct a dock providing  
6 permanent mooring to serve four residential lots. The dock will  
7 include a 65-foot pier supported by piling, a 40-foot ramp and a  
8 60-foot float secured with concrete anchors. The dock is L-shaped in  
9 design with the float extending toward the northwest. The dock would  
10 be about 6 feet above the water at high tide and 16-18 feet above the  
11 water at low tide. The float is 60 feet long and 10 feet wide and  
12 would rise 15 inches above water. The proposed dock would be situated  
13 northwest of a partially completed dock being constructed by Bruce  
14 Barr. When completed and used, the Barr dock and watercraft could  
15 obscure portions of the proposed dock. To some people the dock will  
16 detract from their view of the shoreline. Appellant has demonstrated  
17 that the dock has been designed to minimize the visual impact from it  
18 in this shoreline.

19 V

20 The applicable sections of the San Juan County Shoreline Master  
21 Program are:

22 SECTION 5.08 states that docks are permitted on  
23 Conservancy shorelines only where no alternative site  
24 is available. The Master Program encourages joint  
25 use of a single facility and requires consideration  
of environmental and aesthetic factors in all dock  
developments. Mooring buoys are preferred over new  
dock construction.

SECTION 6.03, Shorelines of Statewide Significance, provides that the statewide interest should be recognized and protected over local interests, and the natural character of shorelines should be preserved. Actions which would irreversibly alter or degrade natural conditions are to be severely limited. Visual impacts are to be thoroughly evaluated and adverse impacts minimized.

Mooring buoys are preferred over new dock construction. However, they were inappropriate and impractical in the area. Appellant further demonstrated that there is no reasonable alternative dock site available to serve the four lots for which application is made. The location of the dock is in a conservancy area within which docks are permitted, and the appellant provides for a joint use as required by the County's Shoreline Master Program. The dock is so designed as to minimize adverse visual impacts.

#### VI

The Board of County Commissioners denied issuance of the permit for a number of reasons. One of those reasons was the fact that they had previously granted a permit (Application No. 15J80) to Bruce Barr and conditioned that permit upon his making the dock available to "six applicants" besides himself. Testimony and site inspection on October 18, 1982, showed that the size limitation placed upon the Barr dock precluded joint use by appellant and that no local access was reserved to allow appellant access to the Barr dock; nor was any provision made in the Barr permit which would require him to make moorage space available to the Connors and Deans.

VII

The Board finds that the commissioner's "intention" as expressed in the granting of the Barr application is insufficient to constitute an impediment to appellant's application and the granting of a substantial development permit. The application filed with San Juan is complete in all respects and meets the requirement of local ordinances and state law.

VIII

Any Conclusion of Law which should be deemed a Finding of Fact is hereby adopted as such.

From these Findings the Board enters these

CONCLUSIONS OF LAW

I

The conditions and provisions of the Barr permit are insufficient reasons in and of themselves to prevent Mr. Conner from receiving a permit. Mr. Conner was not an applicant in the Barr application, nor was the Barr permit sufficiently conditioned to require Mr. Barr to provide moorage for the Connor's or Dean's lots.

II

The visual impact of the dock is not so adverse as to be inconsistent with the San Juan County Shoreline Master Program and the Shoreline Management Act (SMA), or State Environmental Policy Act. Absent specific requirement in the master program, the SMA does not preclude docks on aesthetic grounds. See Portage Bay v. Shorelines

1 Hearings Board, 92 Wn. 2nd 1, 5 (1979).

2 III

3 The decision of San Juan County should be reversed and the matter  
4 should be remanded to the County for permit issuance. The County  
5 should require that the four subject property owners sign the  
6 shoreline development permit application and file an agreement to  
7 share joint use of the proposed dock.

8 IV

9 Any Finding of fact which should be deemed a Conclusion of Law is  
10 hereby adopted as such.

11 From these Conclusions the Board enters this  
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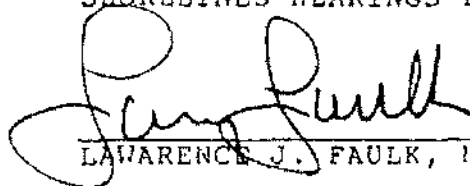
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27 CONCLUSIONS OF LAW & ORDER  
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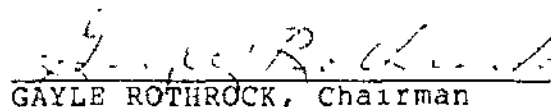
ORDER

The decision of the San Juan County Commissioners in regard to the substantial development permit of Mr. William M Conner is reversed and the matter is remanded to the County for permit issuance consistent with this decision.

DONE at Lacey, Washington, this 15<sup>th</sup> day of December, 1982.

SHORELANDS HEARINGS BOARD

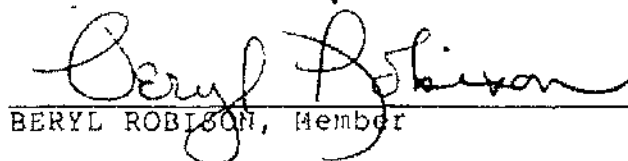
  
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